

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA**

KOCH FOODS OF ALABAMA, LLC,	)	
an Alabama limited liability company,	)	Case No. 07-cv-522-MHT
	)	
Plaintiff and Counterclaim-defendant,	)	
	)	Honorable Myron H. Thompson
v.	)	
	)	Honorable Terry F. Moorer
GENERAL ELECTRIC CAPITAL	)	
CORPORATION, a Delaware corporation,	)	
	)	
Defendant and Counterclaim-plaintiff.	)	

## **KOCH FOODS' OBJECTIONS TO GECC'S DESIGNATION OF EXHIBITS**

Plaintiff and Counterclaim-Defendant, Koch Foods of Alabama, LLC (“Koch”), through its undersigned counsel, pursuant to this Court’s Uniform Scheduling Order dated July 17, 2007, submits the following objection (the “Objection”) to the Designation of Exhibits submitted by Defendant and Counterclaim-Plaintiff General Electric Capital Corporation (“GECC”) (Doc. No. 84):

Koch objects to Exhibit 2 of GECC’s Designation of Exhibits, which is tilted “Expert Report of Robert Breakstone for General Electric Capital Corporation in the matter of Koch Foods of Alabama, LLC v. General Electric Capital Corporation, Case No. 07 C 522, dated October 1, 2007.”

The grounds for Koch's objections are fully set forth in Koch's *Motion In Limine To Exclude Robert Breakstone's Testimony, To Exclude Evidence Regarding Other Litigation, And To Exclude Evidence Of Conversion Of The Spiral Freezer*, which will be filed contemporaneously with these Objection. Koch objects to Mr. Breakstone's report because Mr. Breakstone's opinions in his report are unreliable and misleading and, thus, fail to meet the

requirements under Rule 702 of the Federal Rules of Evidence (the “Rules”). In addition, the misleading effect of his opinions substantially outweighs their probative value, and, therefore, Mr. Breakstone’s report must be excluded under Rule 403. Moreover, Because Mr. Breakstone has no personal knowledge of the equipment, he cannot offer any lay opinion testimony regarding the value of the equipment under Rule 701.

Dated: March 31, 2008

Respectfully submitted,

/s/ Zhiyuan Xu  
Zhiyuan Xu

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CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that copies of the foregoing were caused to be served upon counsel of record addressed as follows by the ECF system on this 31st day March, 2008.

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/s/ Zhiyuan Xu  
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